

REMARKS/ARGUMENTS

Favorable reconsideration of this application in view of the above amendments and in light of the following discussion is respectfully requested.

Claims 13-16 and 18-26 are pending. The present Response amends Claims 18, 19 and 22-24, and cancels Claim 17 without prejudice or disclaimer. Specifically, Claims 18, 19 and 22-24 are amended in the manner suggested by the Office Action in response to the rejection under 35 U.S.C. § 112, second paragraph. As such, the present Amendment is not believed to create any new issues that require further search or consideration. Moreover, M.P.E.P. § 714.13 states that (emphasis added) “[a]n amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions.” By removing the 112, second paragraph issue in the manner suggested by the Office Action, the present Amendment is believed to place the application in better form for appeal. Accordingly, it is respectfully requested that the present Amendment be entered.

The Office Action objected to the drawings. In addition, the Office Action rejected Claims 17-19 and 22-24 under 35 U.S.C. § 112, second paragraph; rejected Claims 13, 14, 16-18 and 22-24 under 35 U.S.C. § 103(a) as unpatentable over Hornung (US Patent No. 6,974,518) in view of Seelen (US Patent No. 2,768,475); rejected Claims 20, 21 and 25 under 35 U.S.C. § 103(a) as unpatentable over Hornung in view of Seelen and Battersby (US Patent No. 3,957,406); rejected Claims 13-19 and 22-26 under 35 U.S.C. § 103(a) as unpatentable over Itoh (U.S. Patent No. 5,437,902) in view of Seelen; and rejected Claims 20 and 21 under 35 U.S.C. § 103(a) as unpatentable over Itoh in view of Seelen and Battersby.

In response to the objection to the drawings, Claim 17 is canceled without prejudice or disclaimer. Accordingly, it is respectfully requested the objection to Claim 17 be withdrawn.

In response to the indefiniteness rejection under 35 U.S.C. § 112, second paragraph, Claims 18, 19 and 22-24 are amended as suggested in the Office Action. Accordingly, it is respectfully requested the indefiniteness rejection be withdrawn.

It is respectfully requested the rejections based on the combination of Hornung and Seelen and based on the combination of Itoh and Seelen be withdrawn.

Independent Claim 13 relates to an insulating glazing panel. Claim 13 recites that the glazing panel includes a first glass pane, a second glass pane, and a spacer configured to keep the first and second glass panes apart. The spacer includes a first end face, a second end face, a substantially flat external face, and a substantially flat internal face. The spacer is fixed by adhesive bonding using a first fastener and a second fastener.

Claim 13 recites the first fastener *directly contacts* the internal face of the spacer, the first end face, and the internal face of the first glass pane, or the first fastener *directly contacts* the internal face of the spacer and an end face of the first glass pane such that the end face of the first glass pane directly faces the internal face of the spacer.

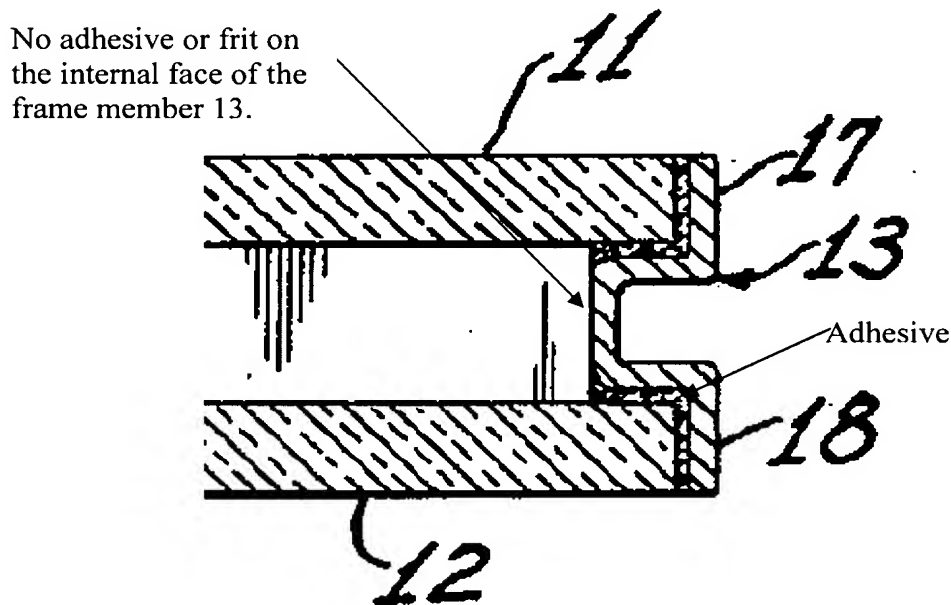
Claim 13 defines the internal face as (1) substantially flat, (2) extending between and substantially perpendicular to the first end face and the second end face, (3) extending substantially parallel to the external face, and (4) that including a gas space facing portion that directly faces a gas space that separates the first glass pane and the second glass pane.

The Office Action asserts that either Hornung or Itoh disclose the claimed spacer,¹ but acknowledges that neither of these references disclose the claimed first adhesive in the

¹ See the outstanding Office Action at pages 3-5 and 7-9.

claimed locations.² The Office Action asserts these deficiencies are cured by Seelen, stating, “Seelen et al discloses a spacer (14) fixed by adhesive bonding using a first and second fastener(19, on either side of part 14), the first fastener having at least a portion (figure 7) placed on the internal face of the spacer (figure 7).”³

Applicants respectfully disagree. While Figure 7 of Seelen provides an isometric view of the frame member 13 in the assembled state, Figure 2 of Seelen provides a more complete side view of the frame member 13 in the assembled state. As can be seen in the annotated partial view of Figure 2 reproduced below, neither the frit 19 nor the frit putty 20 *directly contacts* all of the surfaces claimed in independent Claim 13. Specifically, none of the adhesive *directly contacts* the internal face of the frame member 13.



By contrast, amended independent Claim 13 requires (1) the first fastener *directly contacts* the internal face of the spacer, the first end face of the spacer, and the internal face

² See the outstanding Office Action at page 5, lines 3-10, and at page 9, line 3.

³ See the outstanding Office Action at page 5, lines 11-13, and at page 9, lines 4-6.

of the first glass pane, or (2) the first fastener *directly contacts* the internal face of the spacer and an end face of the first glass pane such that the end face of the first glass pane directly faces the internal face of the spacer. With respect to item (2), neither the surface of the wing 17 that includes adhesive nor the surface of the wing 18 that includes adhesive are analogous to the internal face recited in Claim 13. Claim 13 recites a substantially flat internal face that extends between and substantially perpendicular to the first end face and the second end face, that extends substantially parallel to the external face, and that includes a gas space facing portion that directly faces the gas space. Neither of the wings 17 or 18 of the frame member 13 (1) extend between and substantially perpendicular to the claimed first end face and the claimed second end face, and (2) include a gas space facing portion that directly faces the gas space.

Moreover, as can be seen in Figure 7 of Seelen, the frit 19 is interposed between the frit putty 20 and the lands 15 and 16. Therefore, although the frit putty 20 directly contacts the internal faces of the glass panes 11 and 12, the frit 19 is *interposed between* the frit putty 20 and the frame 13. Thus, the frit putty 20 does not *directly contact* the frame 13. Nor does the frit 19 *directly contact* an end face or an internal face of either of the glass pane 11 or the glass pane 12 of Seelen.

Accordingly, even the combined teachings of Hornung, Itoh and Seelen fail to disclose or suggest all the features of amended independent Claim 13. It is submitted independent Claim 13 and the claims dependent therefrom are in condition for allowance.

Battersby fails to cure the deficiencies in the combination of Hornung, Itoh and Seelen discussed above with respect to independent Claim 13. Accordingly, Claims 20, 21 and 25 are believed to be in condition for allowance for at least the same reasons as Claim 13, from which they depend.

For the reasons discussed above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance for Claims 13-16 and 18-26 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

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